

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

CHESTER WILLIS, JR.,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

CRIMINAL ACTION FILE

No. 2:22-CR-0026-SCJ-1

CIVIL ACTION FILE

No. 2:23-CV-0208-SCJ

ORDER

This matter is before the Court for consideration of the Final Report and Recommendation (R&R), Doc. No. [184], in which the Magistrate Judge recommends that the pending 28 U.S.C. § 2255 motion to vacate, Doc. No. [155], be granted and that Movant be granted an out-of-time appeal. In the absence of objections, the Court concludes that the Magistrate Judge did not err, the R&R, Doc. No. [184], is **ADOPTED** as the order of the Court, and the Court **GRANTS** Movant an out-of-time appeal. According to the Eleventh Circuit,

[w]hen the district courts of this circuit conclude that an out-of-time appeal in a criminal case is warranted as the remedy in a § 2255

proceeding, they should effect that remedy in the following way: (1) the criminal judgment from which the out-of-time appeal is to be permitted should be vacated; (2) the same sentence should then be reimposed; (3) upon reimposition of that sentence, the defendant should be advised of all the rights associated with an appeal from any criminal sentence; and (4) the defendant should also be advised that the time for filing a notice of appeal from that re-imposed sentence is ten days, which is dictated by Rule 4(b)(1)(A)(i).

United States v. Phillips, 225 F.3d 1198, 1201 (11th Cir. 2000).

Pursuant to Phillips,

(1) The criminal judgment in this action, Doc. No. [90], is **VACATED**.

(2) The sentence of imprisonment, the term of supervised release, the special assessment, and the fine imposed by this Court in the judgment and commitment entered on June 5, 2023, id., are hereby **REIMPOSED** with appropriate credit for time already served and sums of the special assessment and/or fine that may have already been paid, and the Clerk is **DIRECTED** to docket a new judgment dated the day this order is entered.

(3) Movant is hereby **ADVISED** that: (a) he has the right to an appeal; (b) if he is unable to pay the cost of an appeal, he may apply for *in forma pauperis* status to pursue the appeal; (c) if he so requests, the Clerk of this Court will prepare and file a notice of appeal on his behalf; (d) if he is unable to afford

counsel for the appeal, he should so notify the Clerk, and an attorney will be appointed for him.

(4) With few exceptions, any notice of appeal must be filed within fourteen days of the date the Court reimposes the sentence.

The Court hereby continues the existing representation of Brian Mendelsohn, Esq. (Doc. No. [166]) and appoints him as appellate counsel.

The Clerk is **DIRECTED** to close Civil Action Number 2:23-CV-0208-SCJ.

IT IS SO ORDERED this 4th day of February, 2025.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE